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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

GUARDANT HEALTH, INC.,
a Delaware corporation,

Plaintiff,

vs.

NATERA, INC.,
a Delaware corporation,

Defendant.

Case No. 3:21-cv-04062-EMC

**PLAINTIFF GUARDANT HEALTH, INC.'S
NOTICE OF MOTION AND MOTION FOR
TEMPORARY RESTRAINING ORDER**

Date: June 3, 2021
Time: 1:45 p.m. (Pacific Time)
Courtroom: Zoom Webinar

Complaint Filed: May 27, 2021

NOTICE OF MOTION AND MOTION FOR TEMPORARY RESTRAINING ORDER

PLEASE TAKE NOTICE, that on June 3, 2021 at 1:45 p.m. or as soon thereafter as the matter may be heard, before the Honorable Edward M. Chen, Judge for the Northern District of California, in the San Francisco Courthouse, via Zoom Webinar, Plaintiff Guardant Health, Inc. (“Plaintiff” or “Guardant”) will and hereby does move this Court for an order, pursuant to 15 U.S.C. §1116(a) and Fed. R. Civ. P. 65, temporarily restraining and enjoining Defendant Natera, Inc. (“Defendant”), its officers, agents, servants, employees, and attorneys, and all persons in active concert or participation with Defendant, from making any statements to Defendant’s or Plaintiff’s customers or potential customers, including oncologists and other physicians, cancer researchers, health care institutions, biopharmaceutical companies, and genetic laboratories, whether orally, in writing, or through any electronic means, including emails, PowerPoint presentations, or distributing copies of the “Evidence Review,” “white paper,” and “Performance Comparison” referenced herein, that falsely describe the Guardant Reveal™ (“Reveal”) assay as being untested, inaccurate, insensitive, or inferior to Defendant’s Signatera™ assay (“Signatera”), or that compare Signatera to Reveal based on data drawn from any studies that do not directly compare the two assays, and specifically including any statement or inference that:

- Signatera has a lower “failure rate” than Reveal;
- Signatera has superior “pre-surgical sensitivity” than Reveal;
- Signatera has a superior 30-day post-surgical negative and/or positive predictive value than Reveal, or that data for Reveal is “not reported” or “not validated”;
- Signatera provides a superior “diagnostic lead time” than Reveal;
- Signatera provides a superior longitudinal negative predictive value than Reveal;
- Signatera provides superior hazard ratios than Reveal; or that
- Signatera has superior serial or longitudinal sensitivity than Reveal.

STATEMENT OF THE ISSUES TO BE DECIDED

Whether the Court should enter an order temporarily restraining and enjoining Defendant Natera, Inc. from making false advertising statements regarding its own tumor-dependent assay,

1 Signatera™ (“Signatera”), alone or in comparison with Plaintiff Guardant Health, Inc.’s Guardant
2 Reveal™ (“Reveal”) liquid biopsy cancer assay for early-stage colorectal cancer (CRC) patients,
3 and from making false statements regarding the validity, accuracy, and sensitivity of Reveal. The
4 analysis of this issue includes:

- 5 a. whether Plaintiff enjoys a likelihood of success on the merits of its false
6 advertising claim under § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a);
7 b. whether Plaintiff shows it is likely to suffer irreparable harm if a preliminary
8 injunction does not issue;
9 c. whether the balance of hardships between the Plaintiff and Defendant
10 warrants a remedy in equity; and
11 d. whether the public interest would be served by an injunction.

12 *Monsanto Co. v. Geertson Seed Farms*, 561 U.S. 139, 156-57 (2010); *Lopez v. Brewer*, 680 F.3d
13 1068, 1072 (9th Cir. 2012).

14 Dated: June 2, 2021

NORTON ROSE FULBRIGHT US LLP
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18 Attorney for Plaintiff
19 GUARDANT HEALTH, INC.